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IN THE
Supreme Court of the United States

Hwang Geum Joo, Yuan Zhulin, Lola Tomasa Salinog, Liu Huang A-tau, Kim Boon-sun, Kim Sang Hee, Kim Soon-Duk, Yi Yong Nyo, Kim Bok-Dong, Lu Xiuzhen, Guo Yaying, Zhu Qiaomei, Prescila Bartonico, Narcisa Claveria, Maxima Regala de la Cruz, on behalf of themselves and all others similarly situated,

Petitioners,

v.

Government of Japan,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the District of Columbia Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Are claims for conduct related to a war constitutionally committed to the Executive Branch as a categorical matter under the political question doctrine?
2. What degree of deference do courts owe Executive Branch Statements of Interest in determining whether claims involving foreign affairs present a political question?
3. Does the interpretation of a foreign treaty present a nonjusticiable political question?

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PETITION FOR A WRIT OF CERTIORARI

Petitioners Hwang Geum Joo, et al., respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the District of Columbia Circuit in this case.

OPINIONS BELOW

The opinion of the U.S. Court of Appeals for the D.C. Circuit is reported at 413 F.3d 45, and is reproduced in the Appendix beginning at 1a. Prior opinions of this Court, the Court of Appeals, and the District Court are reproduced in the Appendix, beginning at 17a, 18a, and 38a, respectively.

JURISDICTION

Petitioners seek review of the judgment of the U.S. Court of Appeals for the D.C. Circuit dated June 28, 2005 (App. 1a). On September 14, 2005, Justice Ginsburg, as Circuit Justice, extended the time to file this petition to and including October 26, 2005. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

RELEVANT TREATY PROVISIONS

The relevant treaty provisions are reproduced in the Appendix at 70a.

STATEMENT

This case concerns whether Japan is liable for trafficking in women and girls. Petitioners are fifteen women from China, Korea, the Philippines, and Taiwan who were taken by force, coercion or deception by the Japanese government between 1931 and 1945 and forced to serve as sex slaves – euphemistically known as “Comfort Women” – in state-established brothels, or “comfort stations.” They were repeatedly beaten and raped, with some of the Petitioners forced to have sex as many as 40 times per day. Compl. ¶¶ 1, 7-21.

Japan operated the comfort stations as businesses where patrons were required to pay for the use of the women. Compl. ¶¶ 8, 55. The prices charged varied according to the ethnicity of the women. Compl. ¶¶ 8, 55. Proceeds from the comfort stations went to the Japanese government. Compl. ¶ 55. One of the Petitioners was only ten years old at the time of her abduction and enslavement. Compl. ¶ 20. The others ranged in age from thirteen to twenty-six. Compl. ¶¶ 7-19, 21. To this day, these women still bear severe physical and psychological scars from their brutalization at the hands of the Japanese government. Compl. ¶¶ 7-21, 64.

Historians estimate that Japan enslaved as many as 200,000 Comfort Women between 1931 and 1945, and that only about 30% of them survived their ordeal. David Boling, *Mass Rape, Enforced Prostitution, and the Japanese Imperial Army: Japan Eschews International Legal Responsibility?*, 32 Colum. J. Transnat'l L. 533, 541-42 (1995). Most Comfort Women came from China, Korea, and other Asian countries. Japan began establishing comfort stations at least as early as 1931 during its colonization of Korea,¹ and continued to do so during World War II throughout the areas of Asia and the Pacific it controlled, including on American territory in Guam and the Philippines. Compl. ¶ 57; Yoshimi Yoshiaki, *Comfort Women* (Suzanne O'Brien trans., Columbia Univ. Press 2000) (1995).

In 1951, the United States and other Allied nations entered into a Treaty of Peace with Japan, Sept. 8, 1951, 3 U.S.T. 3169, 136 U.N.T.S. 45 (App. 70a-108a) ("San Francisco Treaty"), that officially terminated the state of war between Japan and the Allied Powers. The San Francisco Treaty was

¹ Petitioners allege in the Complaint that Japan's operation of the brothels and torts against Petitioners began in 1931, Compl. ¶¶ 1, 11-13, 16-18. Thus the Court of Appeals plainly erred in stating that Petitioners failed to argue that their claims concern conduct that predates World War II. 413 F.3d at 49 n.* (App. 9a).